

VZCZCXYZ0001
OO RUEHWEB

DE RUEHC #2534 0092315
ZNY SSSSS ZZH
O 092258Z JAN 09
FM SECSTATE WASHDC
TO AMEMBASSY COLOMBO IMMEDIATE 0000

S E C R E T STATE 002534

SIPDIS

E.O. 12958: DECL: 01/09/2018
TAGS: [ETTC](#) [EFIN](#) [KNNP](#) [MNUC](#) [PARM](#) [PINS](#) [PREL](#) [CE](#)
SUBJECT: PRE-NOTIFICATION OF SANCTIONS: A.Q. KHAN AND ASSOCIATES

Classified By: SCA Donald A. Camp for reasons: 1.4 (B)(C)(D)

¶1. (C) This is an action request. Please see paragraph three.

SUMMARY

¶2. (S) Sanctions will be imposed under the Nuclear Proliferation Prevention Act (NPPA), the Export Import Bank Act (EXIM), and Executive Orders (E.O.) 12938 and 13382 on one Sri Lankan citizen who is a resident of Malaysia for his involvement in the international A.Q. Khan nuclear proliferation network.

OBJECTIVES/ACTION REQUEST

¶3. (S) Post is requested to achieve the following objectives:

-- Pre-notify the government not before 6 a.m. EST on January 12 that the U.S. will impose sanctions on one Sri Lankan national, now resident in Malaysia, for nuclear-related proliferation activities associated with the A.Q. Khan nuclear proliferation network.

-- Emphasize that no sanctions will be imposed on governments and that the overall sanctions decision will reflect the diverse and global nature of the network.

-- Note that sanctions will be imposed on 13 people and three private companies in several countries.

-- Inform the host government that the names of the sanctioned entities will be publicly available on January 12 and published in the Federal Register soon thereafter.

-- Provide the non-paper in para five on the applicable sanctions laws and executive orders.

-- Post can draw from points in the Media Note in para six, and the press guidance in para seven, once they are released publicly on January 12 at 0900 EST.

SUGGESTED TALKING POINTS

¶4. (s/rel Sri Lanka)

-- In the interest of our close nonproliferation partnership, I wanted to give you some advance notice about a legal process that has concluded in the U.S.

-- Our investigation into the international A.Q. Khan nuclear proliferation network triggered a legal review of potentially applicable U.S. sanctions authorities.

-- This is a very complex case that involved a large volume of information and many people and companies across the globe.

-- The U.S. would like to inform your government that it will impose sanctions on Buhary Seyed Abu (B.S.A.) Tahir under the Nuclear Proliferation Prevention Act (NPPA), the Export Import Bank Act (EXIM), and Executive Orders (E.O.) 12938 and 13382.

-- This non-paper describes in more detail the specific sanctions and penalties involved.

-- We don,t believe that this name will come as a surprise.

-- This decision will be publicly available on January 12 and will be printed in the Federal Register soon thereafter.

-- This decision is not directed at any country. In fact, as we highlight in our public statement, many countries, contributed to international efforts to shut down and investigate the proliferation network.

-- Sri Lanka, in particular, has demonstrated its commitment to international nonproliferation and partnered closely with the United States on a number of nonproliferation initiatives over the past several years.

-- The sanctions decision will reflect the diverse and global nature of the network. It will include 13 people and three private companies in a number of countries, including ones in Europe, Asia, and Africa.

-- I can assure you that no sanctions related to this case will be imposed on the Government of Sri Lanka.

-- As you know, the actions of the A.Q. Khan network have irrevocably changed the proliferation landscape and will have lasting implications for international security.

-- These sanctions will help prevent and deter future proliferation-related activities and provide a warning to other would-be proliferators.

-- It is imperative that all countries remain vigilant in order to ensure that Khan network associates or others seeking to pursue similar proliferation activities will not become a future source for sensitive nuclear information or equipment.

-- If Asked: What other countries are involved?

I can,t comment on specific countries until the decision is made public.

-- If Asked: Will there be any additional sanctions on this individual?

We don,t foresee, at this time, the imposition of additional sanctions related to these activities.

-- If Asked: Will you share your findings with us?

We cannot share details of the sanction decision but don,t believe the information we have would contribute to a different understanding of the activities than you already have.

-- If Asked: What can the individuals and companies do to have the sanctions lifted?

Each law treats this issue differently. I refer you to the nonpaper we have provided.

End suggested talking points.

LEGAL NONPAPER

15. (U) Begin non-paper:

Nuclear Proliferation Prevention Act (NPPA)

The NPPA provides for the mandatory imposition of a ban on U.S. procurement from any person who, on or after June 30, 1994, knowingly and materially contributes, through the export of nuclear-related goods or technology, to the efforts of any individual, group, or non-nuclear weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material.

Once imposed, the sanction shall apply for a period of at least 12 months, but can thereafter be terminated if reliable information indicates that (1) the sanctioned person has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, and (2) the United States has received reliable assurances from the sanctioned person that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device.

Export Import Bank Act (EXIM)

The EXIM provides for the mandatory imposition of a ban on the Export-Import Bank, guaranteeing, insuring, or extending credit, or participating in the extension of credit in support of United States exports to any person who, after September 23, 1996, knowingly aids or abets a non-nuclear weapon state to acquire a nuclear explosive device or unsafeguarded material.

This sanction can be terminated if the U.S. determines and certifies in writing to the Congress that reliable information indicates that the sanctioned person has ceased to aid or abet any non-nuclear weapon state to acquire any nuclear explosive device or acquire un-safeguarded special nuclear material; and steps have been taken to ensure that the sanctionable activities will not resume. The sanction may also be terminated if the appropriate government has taken certain corrective actions.

Executive Orders 12938 and 13382

These Executive Orders (E.O.) provide the authority to impose measures against a foreign person that has engaged or attempted to engage in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction (WMD) or their means of delivery.

The sanctions under E.O. 12938 include: a ban on USG departments, and agencies, procurement from, or entering into contracts for procurement with, the sanctioned person or entity; a ban on providing any USG assistance to, and any participation in USG assistance programs by, the sanctioned person or entity; and a ban on the importation into the U.S. of goods, technology or services procured or provided by the sanctioned person or entity.

The E.O. 12938 sanctions may be terminated if there is reliable evidence that the foreign person has ceased the activities that led to the imposition of sanctions.

The sanction under E.O. 13382 is that all property and interests in property of the designated entity, that are in the U.S. or subject to the jurisdiction of the U.S. (i.e., U.S. persons anywhere) are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Sanctions under E.O. 13382 may be lifted when circumstances no longer warrant their imposition.

End non-paper.

MEDIA NOTE

16. (U) Post can draw from the following Media Note after 0900 EST January 12.

Begin Media Note:

For Immediate Release

January 12, 2009

Designation of A.Q. Khan and Associates for Nuclear Proliferation Activities

Today, the Department of State announced that sanctions will be imposed on 13 individuals and three private companies for their involvement in the A.Q. Khan nuclear proliferation network. This announcement comes after a multi-year U.S. government review of the available information pertaining to the activities of this network.

We believe these sanctions will help prevent future proliferation-related activities by these private entities, provide a warning to other would-be proliferators, and demonstrate our ongoing commitment to using all available tools to address proliferation-related activities.

Dr. A.Q. Khan led an extensive international network for the proliferation of nuclear equipment and know-how that provided one stop shopping for countries seeking to develop nuclear weapons. He and his associates provided Iran and Libya with centrifuge components, designs, and, in some cases, complete centrifuges. The United States also believes that Khan and his associates provided centrifuge designs, equipment, and technology to North Korea. Dr. Khan also provided Libya with nuclear weapon designs. With the assistance of Khan's network, countries could leapfrog the slow, incremental stages of other nuclear weapons development programs. In 2004, following Libya's welcome decision to renounce its nuclear program, the United States removed from Libya items it had received from the network.

The network's actions have irrevocably changed the proliferation landscape and have had lasting implications for international security. Governments around the world, including Pakistan, South Africa, Turkey, the United Kingdom, Germany, the United Arab Emirates, Switzerland, and Malaysia, worked closely with the United States to investigate and shut down the network. Governments have also joined together to put in place United Nations Security Council Resolution 1540 to criminalize proliferation and have worked cooperatively to establish the Proliferation Security Initiative (PSI) to enhance international tools to interdict and prevent trade in sensitive technologies.

Many of Dr. Khan's associates are either in custody, being prosecuted, or have been convicted of crimes. Dr. Khan publicly acknowledged his involvement in the network in 2004, although he later retracted those statements. While we believe the A.Q. Khan network is no longer operating, countries should remain vigilant to ensure that Khan network associates, or others seeking to pursue similar proliferation activities, will not become a future source for sensitive nuclear information or equipment.

Sanctions have been imposed under the following statutes as follows:

Nuclear Proliferation Prevention Act (NPPA): Selim Alguadis, Kursad Zafer Cire, Muhammad Nasim ud Din, EKA Elektronik Kontrol Aletleri Sanayi ve Ticaret A.S., ETI Elektroteknik Sanayi ve Ticaret A.S., Muhammad Farooq, Paul Griffin, Peter Griffin, Abdul Qadeer Khan, Shamsul Bahrin bin Rukiban, Buhary Seyed Abu Tahir, and Shah Hakim Shahnazim Zain

Export-Import Bank Act (EXIM): Selim Alguadis, Kursad Zafer Cire, Muhammad Nasim ud Din, EKA Elektronik Kontrol Aletleri Sanayi ve Ticaret A.S., ETI Elektroteknik Sanayi ve Ticaret A.S., Muhammad Farooq, Daniel Geiges, Paul Griffin, Peter Griffin, Abdul Qadeer Khan, Gotthard Lerch, Shamsul Bahrin bin Rukiban, Buhary Seyed Abu Tahir, Gerhard Wisser, and Shah Hakim Shahnazim Zain

Executive Order 12938: Selim Alguadis, Kursad Zafer Cire, Muhammad Nasim ud Din, EKA Elektronik Kontrol Aletleri Sanayi ve Ticaret A.S., ETI Elektroteknik Sanayi ve Ticaret A.S., Muhammad Farooq, Daniel Geiges, Paul Griffin, Peter Griffin, Abdul Qadeer Khan, Gotthard Lerch, Shamsul Bahrin bin Rukiban, Buhary Seyed Abu Tahir, Tradefin Engineering, Gerhard Wisser, and Shah Hakim Shahnazim Zain

Executive Order 13382: Selim Alguadis, Kursad Zafer Cire, Muhammad Farooq, Daniel Geiges, Paul Griffin, Peter Griffin, Abdul Qadeer Khan, Gotthard Lerch, Buhary Seyed Abu Tahir, and Gerhard Wisser

End media note.

Press Guidance

[17](#). (U) Post can draw from the ISN Press Guidance after 0900 EST January 12.

Begin Press Guidance:

ISN Contingency Press Guidance
January 12, 2009

A.Q. Khan Network: Sanctions

General Questions

Q: What specifically did A.Q. Khan and his network transfer?
What did these people do to trigger sanctions?

These entities were sanctioned for engaging in nuclear-related proliferation activities as part of the international A.Q. Khan network.

In particular, Dr. Khan and his associates in a number of countries provided Iran and Libya with centrifuge components, designs, and, in some cases, complete centrifuges. The United States also believes that Khan and his associates provided centrifuge designs, equipment, and technology to North Korea. Dr. Khan also provided Libya with nuclear weapon designs.

These illicit transfers by the Khan network have been reported in the press for a number of years. I cannot comment on additional specific intelligence-related information.

Today,s imposition of sanctions on private companies and individuals does not reflect recent proliferation activity by the network.

Q: Why haven,t you sanctioned any countries?

The authorities under which sanctions are being imposed do not target countries. Governments around the world, including Pakistan, South Africa, Turkey, the UK, Germany, Switzerland, the UAE, and Malaysia worked closely with the U.S. to investigate and shut down this international network.

Q: Why has it taken four years to impose sanctions?

This is a very complex case that involved a large volume of information and many people and companies across the globe.

We have been working diligently for the past four years to assemble and properly evaluate the available information.

Given the consequences of a sanctions decision, it is important that the information be thoroughly vetted and evaluated before a sanctions determination is made.

Q: Why couldn't you have sanctioned some entities earlier instead of waiting four years?

Information continued to become available as other countries concluded their investigations or prosecutions and we believed in this case that it was important to sanction the group at one time.

Q: Did you tell the affected governments prior to public announcement?

Yes, governments were notified in advance that the United States intends to impose proliferation sanctions on these private companies and individuals. We applaud the actions that each of these countries took to shut down and investigate the network, and work cooperatively to implement new measures to prevent proliferation.

Q: What sanctions authorities were used to impose penalties?

There are two sanctions laws and two Executive Orders that provide the basis for the imposition of sanctions in this case. The sanctions laws are the Nuclear Proliferation Prevention Act (the NPPA) and the Export Import Bank Act (EXIM). The two Executive Orders are 12938 and 13382.

Q: What do these authorities require?

The NPPA provides for the mandatory imposition of a ban on U.S. procurement from any person who, on or after June 30, 1994, knowingly and materially contributes, through the export of nuclear-related goods or technology, to the efforts of any individual, group, or non-nuclear weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material.

The EXIM provides for the mandatory imposition of a ban on the Export-Import Bank, guaranteeing, insuring, or extending credit, or participating in the extension of credit in support of United States exports to any person who, after September 23, 1996, knowingly aids or abets a non-nuclear weapon state to acquire a nuclear explosive device or unsafeguarded material.

The Executive Orders provide the authority to impose measures against a foreign person that has engaged or attempted to engage in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction (WMD) or their means of delivery, including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by any person or foreign country of proliferation concern.

Q: What penalties can be imposed pursuant to these sanctions authorities?

These sanctions are not being applied to any governments, but to private companies and individuals. In brief, the NPPA provides for a ban on USG procurement from the sanctioned person. EXIM provides for a ban on Export Import Bank credit, guarantees, or insurance in support of U.S. exports to the sanctioned person. Executive Order 12938 provides for a ban on USG procurement or imports from the sanctioned entity as well as a ban on U.S. assistance to the sanctioned entity. Executive Order 13382 freezes the assets of a sanctioned entity that are under U.S. jurisdiction.

Q: What impact, if any, will these sanctions have?

These sanctions will help prevent and deter future proliferation-related activities and provide a warning to other would-be proliferators.

Q: What can companies and individuals do to have sanctions rescinded?

Each law treats this issue differently. I refer you to the statutes.

Q: Is the A.Q. Khan network still active? If so, what are we doing about it?

We do not believe that the network run by A.Q. Khan is still functioning.

Most of the key people involved with the network have been put out of business, are in jail and/or facing prosecution.

We remain concerned that individuals associated with the network, once they are released from jail or are no longer being closely monitored, could re-engage in proliferation on their own in the future. It is important that countries continue to monitor their behavior closely and put in place laws and enforcement mechanisms to prevent proliferation activities.

Q: Do remnants of the network still exist? What are we doing about them?

Saying the Khan network is no longer functioning does not mean that other proliferation-related networks and activity around the world has stopped.

We know, for example, that Iran has utilized several different front and Iranian companies to purchase particular items of proliferation concern.

Several of these entities and companies were identified in UN Security Council Resolutions 1737, 1747, and 1803 in connection with their involvement in the Iranian nuclear or missile programs.

The U.S. has taken action against many of these entities, including designations under E.O. 13382. More information on E.O. 13382 designations can be found on the State Department's website under nonproliferation sanctions as well as the Treasury's Office of Foreign Asset Control's website.

Country Specific Questions

Pakistan

Q: Wasn't the Government of Pakistan involved or at least knew what was going on?

The government of Pakistan assured us it had nothing to do with the network and we have no information to refute this.

We applaud the actions Pakistan took to shut down and investigate the network.

In the years since the public revelation of the Khan network, the government of Pakistan also has taken a number of positive steps to improve its export controls and promote international nonproliferation.

Q: Why haven't we had direct access to Khan?

We appreciate the cooperation the government of Pakistan has provided the IAEA and the United States. We believe that Pakistan took seriously its commitment to dismantle the network.

Pakistan has assured us that it will not be a source of proliferation in the future.

The United States does not need direct access to A.Q. Khan in order to obtain information about his dealings.

Q: Reports indicate that Pakistan is easing restrictions on

Khan) What is your reaction to this?

We appreciate Pakistan,s efforts in shutting down the proliferation network led by A.Q. Khan as well as the cooperation Pakistan has provided the United States and the IAEA to investigate the Khan network.

We believe Dr. Khan is still a proliferation threat to the world and the proliferation support that he and his associates provided to several states of proliferation concern has had a harmful impact on international security and will for years to come.

Q: Khan recently said he was forced to confess. If we haven,t had access to Khan then how do we know he was complicit?

We have information from other sources indicating that Khan was complicit in nuclear-related transfers to several countries.

Q: Any response to statements by Pakistan that it wants to put the A.Q. Khan issue to rest or that the U.S. has not passed questions on Khan,s activities for some time.

The U.S. appreciates the cooperation Pakistan has provided the U.S. and IAEA.

Such cooperation will continue to be important as we work toward a greater understanding of what the network provided to various countries.

Q: Will there be any additional sanctions on these individuals?

We don,t foresee, at this time, the imposition of additional sanctions related to these activities.

Q: Why didn,t you sanction Khan Research Labs?

I can,t comment on individual decisions.

Q: What effect will these sanctions have on our relationship with Pakistan) specifically, our counter-terrorism relationship?

These sanctions are based on activities by individuals that occurred well in the past and have been public for many years.

We appreciate Pakistan,s efforts in shutting down the Khan proliferation network as well as the cooperation Pakistan has provided the United States and the IAEA to investigate the activities of the Khan network.

The United States has a close partnership with Pakistan on counter-terrorism, nonproliferation, and other issues.

Q: Do you think these sanctions will have an effect on the India-Pakistan relationship?

These sanctions are based on activities by individuals that occurred well in the past and have been public for many years.

Questions about India and Pakistan,s relationship are best answered by those countries.

Switzerland

Q: Is it true that the U.S. asked Switzerland to destroy nuclear documents?

We have no comment.

Q: Why aren,t you sanctioning any of the Tinnners? Is it because they were spies for the U.S.?

We have no comment.

Sanctions Decisions:

Q: Didn't the Khan network include many more people and companies than you sanctioned, including the Tinner family, Henk Slebos, and companies in the UAE. Why aren't you sanctioning them?

The decision to impose sanctions is based on a thorough review of all available information.

While I cannot comment on individual decisions, I can note that we did not impose sanctions on companies that are no longer operating.

Q: Why did you designate some people under E.O. 13382 but not others?

The decision to impose sanctions is based on a thorough review of all available information.

I can't comment on individual sanction decisions.

Q: Why did you sanction Lerch, Geiges, and Wisser under EXIM, but not under the NPPA?

The decision to impose sanctions is based on a thorough review of all available information.

I can't comment on individual sanction decisions.

Q: What about Libya, Iran and North Korea? They bought these items) why haven't we sanctioned them?

These sanctions focus on individuals and companies associated with the Khan network. As such, the governments that acquired these items are not subject to sanction under the NPPA or the EXIM Bank Act.

Iran and the DPRK are subject to a wide array of sanctions, including UNSCRs 1737, 1747, 1803, and 1718 respectively. In addition, sanctions were imposed on the DPRK under the Glenn Amendment of the Atomic Energy Act following its October 2006 nuclear test.

In the case of Libya, once it made the strategic 2003 decision to dismantle its WMD program, it then cooperated with the USG to facilitate that process. Libya also provided information about the A.Q. Khan network's activities in Libya.

Q: Aren't these kinds of sanctions really toothless with little impact?

Sanctions help signal strong U.S. opposition to the activities of the A.Q. Khan network, expose publicly those involved, and serve as a deterrent to others that might consider pursuing similar activities.

Sanctions imposed under Executive Order 13382 will allow the U.S. to seize assets held under U.S. jurisdiction and thereby help prevent future proliferation.

Q: What about North Korea) are sanctions in the works for their nuclear transfers to Syria?

The DPRK is subject to a wide array of sanctions, including UNSCR 1718 and a number of other U.S. sanctions related to its transfers of items proliferation concern. Furthermore, in the Six-Party Talks, the DPRK has reaffirmed its commitment not to transfer nuclear materials, technology or know-how.

Q: What have we learned about Khan's efforts to assist Iran's nuclear program?

The IAEA has detailed in various reports that Iran has admitted to a relationship with the Khan network) the same network that provided nuclear weapons designs to Libya) from 1987 to 1999. This network provided Iran with Pl

centrifuge designs, centrifuges, and components; P2 centrifuge designs; other very sensitive information; and technical advice including a &hemispheres document8.

The &hemispheres document8 contains instructions for casting enriched uranium metal into hemispheres, which the IAEA,s January 2006 report noted are &related to the fabrication of nuclear weapons.8

Beginning with the November 2003 report, the IAEA Director General confirmed that for almost 20 years, Iran had been pursuing undeclared work in some of the most sensitive aspects of the nuclear fuel cycle, and had systematically hidden that work from the IAEA. Iran,s failure to cooperate sharply limits the IAEA,s ability to know more about the possible military dimensions of its nuclear program, and increases the international community,s concerns about Iran,s true intentions.

Q: What have we learned about Khan,s efforts to assist North Korea,s nuclear program?

Former Pakistani President Musharraf has previously acknowledged that Dr. A.Q. Khan and his international network provided sensitive centrifuge technology, including about two dozen centrifuges, to North Korea.

Q: Were there other customer of Khan,s network?

Questions remain as to whether there were other customers.

End Press Guidance.

REPORTING DEADLINE

18. (U) Please report within ten working days of receipt of this cable. Please use SIPDIS caption on all responses.

POINT OF CONTACT

19. (U) Washington point of contact for follow-up information is Caroline Russell and Chris Herrington, ISN/CPI, 647-5035 and SCA/RA Jack Spilsbury and Jason McClellan, 647-1136.
RICE